IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.947 OF 2006

In

SUIT NO.845 OF 2006

Catwalk Worldwide Pvt. Ltd. : Plaintiff

V/s.

M/s.Catwalk : Defendant

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Mr.Rajeshwar i/b. M/s.Leega Apex for the plaintiff.

None present for the defendant though served.

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CORAM : S.A.BOBDE, J.

DATE : FEBRUARY 7, 2007.

P.C.

1. By this Notice of Motion, the plaintiff seeks an injunction restraining the defendants from infringing their registered trade mark and passing off their goods as those of the plaintiff.

2. The defendant appeared on 24.4.2006 when this Court passed an ad-interim order. However, they do not appear today when the matter is called out, though served. Mr.Rajeshwar undertakes to file further affidavit of service within two days. The trade mark of the plaintiff

in respect of which they have obtained a registration is the word "CATWALK" as is apparent from the extract of the journal at exh.‘A-2’. The registration is for items included in class 25 i.e. inclusive of clothing, including boots, shoes, etc. The certificate for the renewal of the trade mark is at exh.‘G’. The plaintiff noticed that the defendant is using the word "CATWALK" as a trade mark on foot wears such as shoes, slippers and allied and cognate goods vide para 12 of the plaint.

3. Having regard to the similarity of the product, prima facie, it appears that such use by the defendant creates a deceptive similarity with the plaintiff’s mark.

4. In view of the uncontroverted allegations in the plaint and the affidavit-in-support of the Notice of Motion, I am of view that the Notice of Motion should be allowed. Hence, the Notice of motion is allowed in terms of prayer clauses (a), (b) and (d).

S.A. BOBDE, J.